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Secretariat

31 May 2006

Secretary-General's bulletin

Records of the Serious Crimes Unit of the Office of the Prosecutor General of Timor-Leste

The Secretary-General, for the purpose of establishing a regime for the management, care, preservation and storage of, and access to, the complete copy of all the records compiled by the Serious Crimes Unit of the Office of the Prosecutor General of Timor-Leste that was made by the United Nations and transported by the United Nations to its Headquarters in New York pursuant to the Agreement between the United Nations and the Democratic Republic of Timor-Leste Concerning Preservation by the Secretariat of the United Nations of a Copy of the Records Compiled by the Serious Crimes Unit, done at Dili on 5 April 2006 (hereafter the "Agreement"), promulgates the following:

Section 1
Scope of the present bulletin

The present bulletin shall apply to the complete copy of all the records, in all forms and media, held by the Serious Crimes Unit of the Office of the Prosecutor General of Timor-Leste and containing or embodying substantive information on matters investigated or prosecuted by the Serious Crimes Unit during its work that was made by the United Nations and transported by the United Nations to its Headquarters in New York in accordance with the terms of the Agreement (hereafter the "copy of the records").

Section 2
Receipt and preparation for storage

2.1 The Archives and Records Management Section of the Office of Central Support Services shall receive and unpack the copy of the records and prepare:

(a) The hard copy records for permanent storage in sealed containers, and

(b) The electronic copy records for permanent storage in a database held on a secure non-networked storage device.

2.2 For this purpose, prior to the transfer of the records to permanent storage pursuant to section 3 below, only (a) the Chief of the Archives and Records Management Section, and (b) such officials of his or her section as he or she may designate in writing may have access to or use the copy of the records or any part

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thereof without the express written authorization of the Secretary-General granted in accordance with section 5 below.

2.3 The Archives and Records Management Section shall:

(a) Affix to each container in which hard copy records are to be sealed a label or mark stating that the container is only to be unsealed in accordance with the provisions of the present, and any subsequent relevant, bulletin; and

(b) Embed in the secure non-networked storage device in which electronic copy records are to be held documentation automatically advising any person wishing to access or use those electronic copy records that the database in which they are contained on the secure non-networked storage device is only to be opened in accordance with the provisions of the present, and any subsequent relevant, bulletin.

Section 3
Storage

3.1 Once the hard copy records have been prepared for storage, they shall be transferred to permanent storage in sealed containers in the archives of the United Nations on premises which are within the Headquarters district, as defined in the Agreement between the United Nations and the United States of America regarding the Headquarters of the United Nations, done at Lake Success on 26 June 1947, as from time to time supplemented.

3.2 Once the electronic copy records have been prepared for storage as a separate dataset held within a database on a secure non-networked storage device, the whole shall be closed and transferred to permanent storage in the archives of the United Nations on premises which are within the Headquarters district, as defined in the Agreement between the United Nations and the United States of America regarding the Headquarters of the United Nations, done at Lake Success on 26 June 1947, as from time to time supplemented.

3.3 Subject to section 3.4 below, the sealed containers containing the hard copy records shall remain sealed and the secure non-networked storage device containing the electronic copy records shall remain closed until 5 April 2056 or until such date thereafter as the Secretary-General may subsequently specify in a further bulletin.

3.4 Before the date specified in or in accordance with section 3.3 above, the sealed containers may be unsealed, the secure non-networked storage device may be opened, and access to or use of the copy of the records or any part thereof held in those containers or on that device may be had, only:

(a) For the purposes of the preservation of the copy of the records in accordance with the provisions of section 4 below; or

(b) Upon the express written authorization of the Secretary-General granted in accordance with section 5 below.

3.5 Immediately following any access to or use of the copy of the records in accordance with section 3.4 above:

(a) Any part of the hard copy records that may have been removed from the containers shall be returned to the containers and any containers that may have been

unsealed shall be resealed and returned to permanent storage in accordance with section 3.1 above; and

(b) Any secure non-networked storage device containing electronic copy records that may have been opened shall be closed and returned to permanent storage in accordance with section 3.1 above.

3.6 After the date specified in or in accordance with section 3.3 above, the sealed containers shall be and shall remain unsealed and the secure non-networked storage device shall be and shall remain opened. Access to and use of the copy of the records shall then be permitted in accordance with such rules, regulations or procedures as may currently be applicable to and in respect of the archives and non-recurrent records of the United Nations.

Section 4
Preservation

4.1 Subsequently to the transfer of the copy of the records to permanent storage pursuant to sections 3.1 and 3.2 above, the Archives and Records Management Section shall, subject to section 5.3 below, take such steps as may from time to time be necessary to maintain, care for, preserve or repair the copy of the records for continued storage.

4.2 For this purpose, only (a) the Chief of the United Nations Archives and Records Management Section, and (b) such officials of his or her section as he or she may designate in writing may unseal the sealed containers or open the secure non-networked storage device or have access to and use the copy of the records or any part thereof without the express written authorization of the Secretary-General granted in accordance with section 5 below.

Section 5
Authorization of access

5.1 The written authorization of the Secretary-General for the unsealing of any of the sealed containers, the opening of the secure non-networked storage device or access to or use of the copy of the records or any part thereof:

(a) Shall be signed by the Secretary-General in person; and

(b) Shall specify the conditions under which access to or use of the copy of the records or any part thereof is to be permitted.

5.2 Without prejudice to sections 2 and 4 above, access to or use of the copy of the records shall be permitted only insofar as it is in accordance with the conditions which have been specified in accordance with section 5.1 (b) above.

5.3 The Secretary-General shall not authorize the unsealing of any of the containers or the opening of the secure non-networked storage device or access to or use of the copy of the records or any part thereof except:

(a) Pursuant to a written request by the competent authorities of the Democratic Republic of Timor-Leste in accordance with article 5.3 of the Agreement; or

(b) With the express written agreement of the competent authorities of the Democratic Republic of Timor-Leste, communicated by the Minister of Foreign

Affairs of the Democratic Republic of Timor-Leste through the Permanent Mission of Timor-Leste to the United Nations in New York.

5.4 Within 15 calendar days of the receipt by the Secretary-General of a request in accordance with section 5.3 (a) above, the Under-Secretary-General for Management or his or her designated representative shall provide to the Government of the Democratic Republic of Timor-Leste, through its Permanent Mission to the United Nations in New York, a written estimate of the cost of fulfilling the request and of the time required to do so.

5.5 Subsequently to providing this estimate, the Under-Secretary-General for Management or his or her designated representative shall endeavour to reach written agreement with the Government, through its Permanent Mission, on the allocation of the costs involved in complying with the request and the modality of payment.

5.6 In formulating the estimate provided for in section 5.4 above and in endeavouring to reach the agreement provided for in section 5.5 above, the Under-Secretary-General for Management or his or her designated representative shall have regard to the provisions of the Agreement, in particular, to the stipulation in paragraph 5 of its article 5 that "there shall be no allocation of costs to [the Democratic Republic of Timor-Leste] if the request by the competent authorities of [the Democratic Republic of Timor-Leste] is the result of a disaster or other extraordinary circumstances affecting the availability or usability of the original Records in Timor-Leste".

5.7 In deciding whether or not to authorize the unsealing of any of the containers in which hard copy records are stored or the opening of the secure non-networked storage device containing electronic copy records or access to or use of the copy of the records or any part thereof pursuant to a request in accordance with section 5.3 (a) above, the Secretary-General shall have regard to the provisions of the Agreement, in particular to:

(a) The stipulation in paragraph 2 of article 5 that "the Copy of the Records that is held by the Secretariat [of the United Nations] is not intended to serve as a primary source of the documents and materials concerned, but rather as a backup resource to which resort is to be had only in the event of disaster or other extraordinary circumstances affecting the availability or usability of the original Records";

(b) The stipulation in paragraph 3 of article 5 that "[a]ny ... request [made pursuant to that same paragraph] shall set forth [inter alia] the following:

- A full description of the documents or materials sought, including identifying data sufficient to enable their retrieval;
- A particularized explanation of why the originals cannot be used";

(c) The stipulation in paragraph 5 of article 5 that "[i]t shall be a condition of the fulfilment of any request pursuant to paragraph 3 of this article that the United Nations Department of Management and [the Democratic Republic of Timor-Leste] first agree in writing on the allocation of the costs involved in complying with the request and the modality of payment"; and

(d) The provisions of paragraph 6 of article 5, including the stipulation that "the Government in consultation with the United Nations will develop procedures to

deal with the release of the records of the [Serious Crimes Unit] that will, inter alia, protect the identity of witnesses, including United Nations personnel and other persons performing services to the United Nations and the information they have provided in confidence to the [Serious Crimes Unit]".

Section 6
Record of access

6.1 The Archives and Records Management Section shall create and maintain a log in order to record access that is had to, and use that is made of, the copy of the records before the date specified in or in accordance with section 3.3 above.

6.2 Detailed rules and procedures regarding the maintenance of the log shall be issued by the Under-Secretary-General for Management in a subsequent administrative instruction.

Section 7
Final provision

The present bulletin shall enter into force on 12 June 2006.

(*Signed*) Kofi A. **Annan**
Secretary-General